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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,596	12/01/2003	Rory Albert James Pynenburg	11848/12	9857
23838 7590 01/02/2008 KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			EXAMINER AUGHENBAUGH, WALTER	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 01/02/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/724,596

Applicant(s)

PYNENBURG, RORY ALBERT
JAMES

Examiner

Walter B. Aughenbaugh

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007 and 11 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49,55,56,58-61,70 and 71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49,55,56,58-61,70 and 71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/27/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 5, 2007 has been entered.

Acknowledgement of Applicant's Amendments

2. The amendments made in claims 49 and 70 in the Amendment filed October 11, 2007 (Amdt. D) has been received and considered by Examiner.
3. New claim 71 presented in Amdt. D has been received and considered by Examiner.

REPEATED REJECTIONS

Claim Rejections - 35 USC § 102

4. The 35 U.S.C. 102 rejection of claims 49, 59 and 61 that was repeated in paragraph 5 of the previous Office Action mailed April 5, 2007 has been repeated for the reasons previously made of record, and for the following reasons that address the amendments in claim 49 in Amdt. D: the terminals of Louie et al. extend from the cavity of Louie et al. (Fig. 1, 5 and 6) between two opposed portions of the inner barrier layer of Louie et al. (Fig. 1), where one portion is the left end of the inner barrier layer as shown in Fig. 1 and the other (opposed) portion is the right end of the terminal (Fig. 1). These portions of the inner barrier layer are sealingly engaged along three opposed edges of the laminate because the inner barrier layer, as a component of the

laminate, is bonded to another layer of the laminate on both faces of the inner barrier layer (col. 2, lines 4-11).

Claim Rejections - 35 USC § 103

5. The 35 U.S.C. 103 rejections of claims 55, 56, 58 and 60 that were repeated in paragraph 6 of the previous Office Action mailed April 5, 2007 have been repeated for the reasons previously made of record, and for the reasons provided above that address the amendment in claim 49 in Amdt. D.

6. The 35 U.S.C. 103 rejection of claim 70 made of record in paragraph 8 of the previous Office Action mailed April 5, 2007 has been repeated for the reasons previously made of record, and for the following reasons that address the amendments in claim 70 in Amdt. D: the terminals of Louie et al. extend from the cavity of Louie et al. (Fig. 1, 5 and 6) between two opposed portions of the inner barrier layer of Louie et al. (Fig. 1), where one portion is the left end of the inner barrier layer as shown in Fig. 1 and the other (opposed) portion is the right end of the terminal (Fig. 1). These portions of the inner barrier layer of the package of Louie et al. as proposed in the rejection of record are sealingly engaged along three opposed edges of the laminate of Louie et al. as proposed in the rejection of record because the inner barrier layer, as a component of the laminate, is bonded to another layer of the laminate on both faces of the inner barrier layer (col. 2, lines 4-11).

NEW OBJECTION

Specification

7. The amendment filed October 5, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall

introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: see 35 U.S.C. 112, first paragraph, rejection of claims 49, 70 and 71 made of record below.

Applicant is required to cancel the new matter in the reply to this Office Action.

NEW REJECTIONS

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 49, 70 and 71 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In regard to claims 49 and 70, the phrase “sealingly engaged” is broader than that which is described in the specification regarding the “three opposed edges of the folded sheet” (claims 49 and 70 and page 10, line 8). Page 10, lines 6-11 of the specification states that the “three opposed edges of the folded sheet” are “heat sealed to sandwich the terminals”: “engaged” is broader than “heat sealed”, so “engaged” should be replaced with “heat sealed” so that the claim language is limited to the scope of the structure that is disclosed (i.e. supported) in the specification.

In regard to claim 71, the phrase “sealingly engaged” is broader than that which is described in the specification regarding the “folded sheet” (claim 71 and page 10, line 8). Page 10, lines 6-11 of the specification states that the “three opposed edges of the folded sheet” are “heat sealed to sandwich the terminals”: “engaged” is broader than “heat sealed”, so “engaged” should be replaced with “heat sealed” so that the claim language is limited to the scope of the structure that is disclosed (i.e. supported) in the specification. Furthermore, the recitation “two opposed portions sealingly engaged with each other” is broader than the disclosed structure because page 10, lines 6-11 of the specification states that the “three opposed edges of the folded sheet” are “heat sealed to sandwich the terminals”, so “two opposed portions” should be replaced with “three opposed edges of the folded sheet” so that the claim language is limited to the scope of the structure that is disclosed (i.e. supported) in the specification.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 49 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 49 recites the limitation "the proposed positions" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 49 recites the limitation "the folded sheet" in line 7. There is insufficient antecedent basis for this limitation in the claim. See paragraph 5 of previous Office Action mailed April 5, 2007, which explains why a “folded sheet” is not positively recited as a characteristic of the claimed final product.

In further regard to claim 49, it is unclear what structure "the proposed positions" (line 6) is intended to recite.

Claim Rejections - 35 USC § 102

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claim 71 is rejected under 35 U.S.C. 102(b) as being anticipated by Louie et al. (USPN 5,591,540).

Louie et al. teach a laminate package for an energy storage device (col. 1, lines 5-10 and Fig. 3 and 4) having two terminals (items 34 and 36, col. 3, lines 21-24 and 54-67 and Fig. 1, 3 and 4). Louie et al. teach that the laminate package includes an inner barrier layer for defining a cavity to contain the energy storage device (Fig. 3) having two opposed portions (corresponding to layer 25 at the top of Fig. 1 and layer 23 at the bottom of Fig. 1 which are coextruded with a polymer that serves as a vapor barrier, see col. 2, lines 31-41) that are sealingly engaged with each other and from between which the terminals extend from the cavity (col. 2, lines 31-50, col. 4, lines 16-48 and Fig. 1, 3 and 4). Louie et al. teach a sealant layer (polymer sealing strip, item 30) disposed intermediate the inner barrier layer (item 25 or 23) and at least one of the terminals for sealing the inner barrier layer to that one of the terminals and for offering a barrier to the passage of one or more contaminants into the cavity (see Fig. 1 and 3, for example, item 30 is between item 25, an inner barrier layer, and item 36, a terminal which is adjacent the sealant layer, item 30). Louie et al. teach an outer barrier layer (corresponding to either layer 23 or 27 at the top of Fig. 1 and either layer 25 or 27 at the bottom of Fig. 1- layers 23 and 25 are coextruded with a polymer that serves as a vapor barrier and layer 27 is polyvinylidene chloride, which is a

vapor barrier, see col. 2, lines 31-44) that is bonded to the inner barrier layer (Fig. 1). Louie et al. teach that the package has a metal layer (metal foils 14 and 26, col. 2, lines 50-55).

Response to Arguments

14. Applicant's arguments presented on pages 5-8 of Amdt. D regarding the rejections of record have been fully considered but are not persuasive.

Applicant argues that Louie et al. do not teach a laminate folded sheet. In regard to claim 49, a "folded sheet" is not positively recited as a characteristic of the claimed final product. Paragraph 5 of previous Office Action mailed April 5, 2007. In regard to claim 70, the 35 U.S.C. 103 rejection of claim 70 acknowledges that Louie et al. fail to explicitly teach that the sheet of laminate material is folded along the length (Examiner interpretes "the length" as referring to the length of the sheet). Paragraph 8 of previous Office Action mailed April 5, 2007.

Applicant argues that Louie et al. do not teach that the recitation "sealingly engaged along three opposed edges of the folded sheet". This language is addressed in the 35 U.S.C. 112 (first and second paragraphs) and 103 rejections of record.

Applicant argues that Sasaki et al. teach a folded sheet, but Sasaki et al. is not relied upon by the Office for a teaching of a folded sheet.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

Application/Control Number:
10/724,596
Art Unit: 1794

Page 8

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Walter B. Aughenbaugh
12/21/07

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